

Referrals
(4/9/19)

**BUDGET,
FINANCE, AND
AUDIT STANDING
COMMITTEE**



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MEMORANDUM

To: Honorable Janee' Ayers, Detroit City Council Member
Chair, Budget Audit and Finance Standing Committee

From: James W. Ribbron, Director

Date: April 2, 2019

RE: Responses to BZA Questions

FY 2018-19 Board of Zoning Appeals Questions

1. How will the legalization of marijuana affect the Board of Zoning's capacity and appeals process?

Until I see at least a draft of the proposed ordinance for the legalization of marijuana I can only speculate that we will be able to handle the process. At the peak of Medical Marijuana the BZA staff was three. We currently have staff of four and expect to hire an additional Inspector this spring or summer.

2. Please provide an organizational breakdown of the contractual and full time staff allocated to the BZA.

Director – Appointed through 2024, Administrative Assistant – full time, Inspector – Full time (union) and Office Assistant – TASS.

3. Does the Board of Zoning have adequate staffing to handle the workload that comes before BZA?

We currently have a staff of four and expect to hire an additional Inspector this spring or summer. We will have adequate staffing to handle the workload once we complete these hiring process.



4. Please provide a breakdown of the most common types of zoning appeals that come before the board.

Type of Cases (Partial Listing from 2018)	Reason for Hearing
Used Auto Sales (3)	BSEED Denial
Add Cabaret	BSEED Denial
Housing Development (16)	Variances
Bar in TMSO	Variances
Liquor Store (3)	Add SDD
Retail Development	Variance
Tiger Stadium (Michigan) PAL	Variance
Non-Conforming Pallet Stacking	
Sign	Variance
MMCC (31)	Spacing variance
Motor Vehicle Repair (8)	Variances
Pre-Release Center	Variances
Gas Station	Expansion
Junk Yard	Variances
Solar Energy Array	Variances
Warehouse	Variance
Restaurant	Variances
Parking Lot	Variances

Cc: Honorable City Council Members
City Clerk



MEMORANDUM

To: Honorable Andre L. Spivey, Detroit City Council Member

From: James W. Ribbron, Director

Date: April 2, 2019

RE: Responses to Budget: Board of Zoning Appeals FY 2020

1. (B51-5) There is a slight decrease in revenues in FY 2020 compared to the previous fiscal year. What is the cause for this decrease?

The decrease in Salaries and Wages is due primarily to the transfer of funding for one (1) Administrative Special Services Staff II position to Miscellaneous Professional Services and the re-allocation of a second Administrative Special Services Staff II position to an Office Assistant position.

2. What were the actual revenues amounts from fiscal year 2019?

The actual revenue amount from FY 2019 are \$67,763.36 as of April 2019, with a projected amount of 104,166.70 for the FY.

3. (B51-10) It appears that there is a decrease of 1 FTE in FY2020. What position will this affect and will this allow the Board to still function effectively?

BZA is not losing a position. Funding for one (1) Administrative Special Staff Services II position was transferred from Salaries/Benefits to Miscellaneous Professional Services.

4. How many zoning inspectors has the Board employed in previous years? What number of inspectors would be optimal?

Since 2012 the BZA has had one (1) zoning inspector. The optimal number of inspectors would be two (2). I am currently working with Human Resources to hire a second inspector.



5. How many cases are the Board hearing each year?

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
2012	8	4	11	4	4	4	8	2	15	2	4	4	70
2013	7	4	2	4	15	8	7	8	8	4	1	4	72
2014	2	2	8	5	4	11	3	2	5	5	3	5	55
2015	4	1	4	7	5	6	9	4	5	11	6	2	64
2016	4	5	9	5	2	8	9	34	18	12	2	3	111
2017	14	12	18	28	7	12	9	19	3	7	4	10	143
2018	6	8	7	7	2	11	4	8	13	12	5	3	86
2019 to Date	17	6	4										27

Highlighted indicates MMCC began and the end of the moratorium.

6. There is some confusion on whether or not there is an ability to come before the Board of Zoning Appeals to seek waiver of zoning restrictions for Marihuana related businesses. Please explain the Board's ability to hear and act upon such cases. Is it true the BZA should only be hearing old cases, or things remanded from court?
I refer to the zoning ordinance to clarify what the ability of the BZA is related to seeking waivers.

Sec. 61-3-355. Permitted districts for medical marihuana facilities; Conditional Uses; Restrictions

(a) Medical marihuana facilities may be permitted on a conditional basis in the following zoning districts in accordance with this Article, subject to the provisions of this Division and any other applicable provisions of this Code, and all applicable state of Michigan requirements:

(1) Medical marihuana grower facilities may be permitted on a conditional basis in the M1, M2, M3, M4, and M5 zoning districts;

(2) Medical marihuana processor facilities may be permitted on a conditional basis in the B6, M1, M2, M3, M4, and M5 zoning districts;

(3) Medical marihuana provisioning center facilities may be permitted on a conditional basis in the B2, B4, B5, B6, M1, M2, M3, M4, and SD2 zoning districts but must not be permitted in any zoning district if the citywide total number of legally established provisioning center facilities and medical marihuana caregiver centers for which a building permit or certificate of compliance has been issued is equal to or greater than seventy-five (75);



(4) Medical marihuana safety compliance facilities may be permitted on a conditional basis in the B2, B4, B5, B6, M1, M2, M3, M4, M5 and SD2 zoning districts;

(5) Medical marihuana secure transporter facilities may be permitted on a conditional basis in the B5, B6, M1, M2, M3, M4, and M5 zoning districts;

(b) A medical marihuana caregiver center or medical marihuana provisioning center facility must not be located in any of the following:

(1) within a drug-free zone, as defined in Sec. 61-3-353 of this Code; or

(2) within a Gateway Radial Thoroughfare overlay area or Traditional Main Street overlay area, as provided in ARTICLE XI.DIVISION 14 of this Chapter; or

(3) on a zoning lot that is located less than:

(A) One thousand (1,000) radial feet from any zoning lot occupied by any religious institution identified as exempt by the City Assessor; and

(B) One thousand (1,000) radial feet from any zoning lot with an unexpired conditional land use approval, building permit, or certificate of occupancy for a medical marihuana caregiver center or medical marihuana provisioning center facility; and

(C) One thousand (1,000) radial feet from any zoning lot occupied by a Controlled Use.

(c) A medical marihuana grower facility, medical marihuana processor facility, or medical marihuana secure transporter facility must not be located in a drug-free zone, as defined in Sec. 61-3-353 of this Code, or within a Traditional Main Street overlay area, as provided in ARTICLE XI.DIVISION 14 of this Chapter.

(d) Neither the Buildings, Safety Engineering and Environmental Department, nor the Board of Zoning Appeals is authorized to waiver or modify the locational specifications set forth in subsections (b)(1), of this section. Applications that are not consistent with the locational specifications of subsections (b)(1), (b)(2), (b)(3), and (c) of this section, which may be confirmed by the City Engineer, shall be considered ineligible for further processing and shall be denied.

Cc: Honorable City Council Members
Deonte Agee, Committee Clerk
Stephanie Washington, Mayor's Liaison



MEMORANDUM

To: Honorable James E. Tate, Jr., Detroit City Council Member

From: James W. Ribbron, Director

Date: April 2, 2019

RE: Responses to FY 2019-2020 BZA Budget Questions

1. Please describe the BZA's regular training efforts for board members and staff. How often is training provided? What types of training opportunities are provided? How much is available in the proposed FY 2019-2020 budget for training?

Since 2016 the BZA has had quarterly trainings, January, April, July, and October. February 13, 2018 P&DD Director presents to the BZA on city development updates; February 27, 2019 Kimani Jeffries, P&DD presents to the BZA on ordinance and December 11, 2019 Ethics presentation presented by Board of Ethics. \$2500 is budgeted for Training for FY 2019-2020.

2. Please describe the BZA's general policy as it relates to non-conforming uses. How does the BZA work to ensure the removal of non-conforming uses over time consistent with the stated goals of the Detroit Zoning Ordinance?

Sec. 61-2-52. Powers and duties; nonconformities.

The Board shall hear and decide requests which involve nonconforming uses, nonconforming structures, nonconforming lots and other nonconformities that came into existence legally, but do not comply with one (1) or more requirements of this Zoning Ordinance.

Sec. 61-15-2. Purpose and scope of regulations.

It is the general policy of the City of Detroit that nonconforming uses be eliminated over time. It remains the general policy of the City to allow uses, structures, and lots that came into existence legally—in conformance with then-applicable requirements—to continue to exist and be put to productive use, but to bring as many aspects of such situations into compliance with existing regulations as is reasonably possible.

Sec. 61-15-7. Board of Zoning Appeals.

The Board of Zoning Appeals shall have the authority to hold hearings and render decisions with respect to nonconforming uses, buildings, and structures.

Pursuant to MCL 125.3406(2), a person is not eligible to apply for a decision with respect to nonconforming uses, buildings, and structures if the person is delinquent in paying a civil fine, costs, or a justice system assessment imposed by an administrative hearings bureau established pursuant to section 4q of the Home Rule City Act, 1909 PA 279, MCL 117.4q. This ineligibility does not apply to an applicant for a zoning authorization if the applicant became the owner of the property by foreclosure or by taking a deed in lieu of foreclosure as provided in MCL



125.3406(3). Further, this ineligibility does not apply if the zoning authorization will correct, in whole or in part, the blight violation that was the subject of the delinquent payment.

3. Does the BZA consider the neighborhood framework plans that have been developed for various neighborhoods as part of its review for variance request? If so, how does the BZA factor those planning priorities into its review to ensure that future development activity is consistent with the vision for the neighborhood?

Sec. 61-4-74. Action by the Board of Zoning Appeals.

The Board of Zoning Appeals shall not act without consideration of any report or recommendation that is submitted by the Planning and Development Department as specified in Sec. 61-2-31(1) of this Code or by any advisory review committee as provided for in ARTICLE II, DIVISION 7 of this Chapter.

February 13, 2018 P&DD Director presents to the BZA on city development updates.

Cc: Honorable City Council Members
Louise Jones, Committee Clerk
Stephanie Washington, Mayor's Liaison



MEMORANDUM *REVISED*

TO: City Council

FROM: Hon. Scott Benson, City Council District 3

CC: Hon. Janee Ayers, Chair, Budget, Audit & Finance Standing Committee
Hon. Janice Winfrey, City Clerk
David Massaron, ACFO
David Whitaker, Director, LPD
Irv Corley, LPD
Stephanie Washington, City Council Liaison

VIA: Hon. Brenda Jones, City Council President

DATE: 2 April 2019

RE: BUDGET MODIFICATION REQUESTS

My office is requesting budget modifications in the following areas:

1. City Council and City Clerk salary modifications to accommodate a 9% salary increase for all members - \$104,000. This is a recurring expense
2. A Climate Action Study and Greenhouse Gas Assessment - \$100,000. One time expense
3. Capital improvement funds for new male and female showers and a weight room at the 9th Precinct - \$200,000. One time expense

The total ask is a \$404,000 modification to the FY 2020 budget:

If you have any questions do not hesitate to contact my office at, 313-224-1198.



MEMORANDUM *REVISED*

TO: City Council

FROM: Hon. Scott Benson, City Council District 3

CC: Hon. Janee Ayers, Chair, Budget, Audit & Finance Standing Committee
Hon. Janice Winfrey, City Clerk
David Massaron, ACFO
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